



3.

Defendant filed its Answer and sent written discovery to the Plaintiff including Interrogatories on October 26, 2021. Plaintiff responded to Defendant's interrogatories on December 3, 2021 and indicated she had incurred medical bills in the amount of approximately \$24,504.00. Plaintiff indicated in her responses that she was making no claim for lost wages. A copy of the Plaintiff's interrogatory responses are attached in composite "Exhibit A".

4.

On February 14, 2022, Plaintiff was deposed. When asked whether surgery was something she was still pursuing, she testified that she wants to "but I can't miss work." (Plaintiff's depo p. 34). A copy of the relevant deposition page of Plaintiff attached as "Exhibit C". Defendant first learned that the Plaintiff had shoulder surgery via email from Plaintiff's counsel on April 12, 2022.

5.

On June 22, 2022, Dr. Mims Gage (Trey) Oschsner III was deposed. He testified that on June 30, 2021, Plaintiff presented and his notes indicated that she was not a candidate for surgery since she was near 100% recovery after her last visit. He testified that Plaintiff returned on February 22, 2022 with the same symptoms and since she had exhausted conservative treatment with the injections, he felt it was reasonable to proceed with surgical intervention if that was something she wanted to do, which she elected to do. The surgery was performed on March 27, 2022 and the Plaintiff continues to treat.

6.

On June 22, 2022, Dr. Oschsner testified that in his opinion the fall which occurred at

Sam's caused the rotator cuff tear. (Depo of Dr. Oschsner p. 22-25, 33). A copy of the relevant pages of the deposition of Dr. Oschsner is attached as "Exhibit D". Including the surgery, Plaintiff's claimed damages exceed \$85,000.

7.

Therefore, Defendant has timely removed this case under 28 U.S.C.A. §1446(b)(3) which provides that *"if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable."*

**Citizenship of Sam's East**

8.

The parties are citizens of different states. Plaintiff is a Georgia citizen. (See Exhibit "A" Plaintiff's Complaint, 1.) Defendant Sam's Club East is a corporation formed under the laws of the State of Delaware with its principal place of business located in Bentonville, Arkansas. (See Exhibit "B": Certificate of Authority to Transact Business and Business search document from Georgia Secretary of State). Consequently, complete diversity of citizenship exists between the parties. *See* 28 U.S.C. § 1332(a)(1).

9.

Removal is appropriate pursuant to 28 U.S.C. § 1441 and 28 U.S.C. §§ 1332 (a) because (1) Plaintiff is a citizen of Georgia; (2) Sam's East Inc. is an Arkansas or Delaware entity whose principal offices are in Arkansas; and (3) the amount in controversy exceeds the sum of \$75,000.00.

10.

This removal is timely because it has been filed within thirty (30) days after receipt by the Sam's Club of the information showing that the amount in controversy is in excess of \$75,000.00.

11.

Pursuant to the provisions of 28 U.S.C. §§1446, Defendant attaches hereto as Composite Exhibit "A", copies of all pleadings and orders served upon Defendants, including copies of all pleadings filed to date in the State Court of Chatham County Georgia for the above-styled case. Defendant's Answer is attached as Exhibit "A".

12.

Pursuant to 28 U.S.C. § 1447 Defendant is not required to file a removal bond.

13.

By service of a copy of this Notice of Removal as evidenced by the Certificate of Service attached, Defendants hereby give notice of such removal to Plaintiff as required by 28 U.S.C. § 1446.

14.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Chatham County, Georgia as required by 28 U.S.C. §1446.

**Wherefore**, Defendant prays that the above captioned lawsuit be removed to the United States District Court for the Southern District of Georgia, Savannah Division, that this Court take cognizance and jurisdiction over this claim from the State Court of Chatham County, Georgia, and that this action shall proceed as removed and under this Court's jurisdiction under 28 U.S.C.

1332.

Respectfully submitted, this 22<sup>nd</sup> day of July, 2022.

**DREW, ECKL & FARNHAM, LLP**

/s/ Garret W. Meader

Garret W. Meader

Georgia Bar No. 142402

Ann H. Searcy

Georgia Bar No. 633302

*Attorneys for Defendant*

777 Gloucester Street  
Suite 305  
Brunswick, GA 31520  
912-280-0654  
gmeader@deflaw.com  
searcya@deflaw.com

**CERTIFICATE OF SERVICE**

This is to certify that I have this day forwarded with the Court's CM/ECF system, as prescribed by the Court, which will automatically send electronic notification of same to following counsel of record a true and correct copy of the foregoing *Notice of Removal* to the following counsel of record, addressed as follows:

wdegenhart@forthepeople.com  
William J. Degenhart  
Morgan & Morgan  
25 Bull Street Suite 400  
Savannah, GA 31401

Respectfully submitted, this 22<sup>nd</sup> day of July, 2022.

**DREW, ECKL & FARNHAM, LLP**

/s/ Garret W. Meader  
Garret W. Meader  
Georgia Bar No. 142402  
Ann H. Searcy  
Georgia Bar No. 633302  
*Attorneys for Defendant*

777 Gloucester Street  
Suite 305  
Brunswick, GA 31520  
912-280-0654  
gmeader@deflaw.com  
searcya@deflaw.com